

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 175

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-38-2.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.5. As used in this chapter, "contract agency" means an agency or a company that contracts with a community corrections program or a probation department to monitor an offender or alleged offender using a monitoring device.**

SECTION 2. IC 35-38-2.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** As used in this chapter, "monitoring device" means an electronic device that:

(1) ~~is limited in capability to the recording can record or transmitting of transmit~~ information **twenty-four (24) hours each day** regarding an offender's:

(A) presence or absence from the offender's home; **or**

(B) **precise location;**

(2) is minimally intrusive upon the privacy of the offender or other persons residing in the offender's home; ~~and~~

(3) with the written consent of the offender and with the written consent of other persons residing in the home at the time an order for home detention is entered, may record or transmit:

(A) ~~a visual images;~~ **image;**

(B) ~~oral or wire~~ **an electronic** communication or any ~~auditory~~ sound; or

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(C) information regarding the offender's activities while inside the offender's home; **and**

(4) can notify a probation department, a community corrections program, or a contract agency if the offender violates the terms of a home detention order.

(b) The term includes any device that can reliably determine the location of an offender and track the locations where the offender has been, including a device that uses a global positioning system satellite service.

SECTION 3. IC 35-38-2.5-4.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.7. As used in this chapter, "violent offender" means a person who is:

(1) convicted of an offense or attempted offense ~~except for an offense~~ under IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, IC 35-47-5-1 (repealed), or IC 35-47.5-5;

(2) charged with an offense or attempted offense listed in IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-42-4, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, IC 35-46-1-3, IC 35-47-5-1 (repealed), or IC 35-47.5-5; or

(3) a security risk as determined under section 10 of this chapter.

SECTION 4. IC 35-38-2.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A court may not order home detention for an offender unless the offender agrees to abide by all of the requirements set forth in the court's order issued under this chapter.

(b) A court may not order home detention for an offender who is being held under a detainer, warrant, or process issued by a court of another jurisdiction.

(c) A court may not order home detention for an offender who has been convicted of a sex offense under IC 35-42-4 or IC 35-46-1-3 unless:

(1) the home detention is supervised by a court approved home detention program; and

(2) the conditions of home detention:

(A) include twenty-four (24) hour per day supervision of the offender; and

(B) require the use of surveillance equipment and a monitoring device that can transmit information twenty-four (24) hours each day regarding an offender's precise location.

SECTION 5. IC 35-38-2.5-10 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) Each probation department or community corrections program shall establish written criteria and procedures for determining whether an offender or alleged offender that the department or program supervises on home detention qualifies as a violent offender.

(b) A probation department or community corrections program shall use the criteria and procedures established under subsection (a) to establish a record keeping system that allows the department or program to quickly determine whether an offender or alleged offender who violates the terms of a home detention order is a violent offender.

(c) A probation department or a community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo home detention shall provide all law enforcement agencies (including any contract agencies) having jurisdiction in the place where the probation department or a community corrections program is located with a list of offenders and alleged offenders under home detention supervised by the probation department or the community corrections program. The list must include the following information about each offender and alleged offender:

- (1) The offender's name, any known aliases, and the location of the offender's home detention.
- (2) The crime for which the offender was convicted.
- (3) The date the offender's home detention expires.
- (4) The name, address, and telephone number of the offender's supervising probation or community corrections program officer for home detention.
- (5) An indication of whether the offender or alleged offender is a violent offender.

(d) Except as provided under section 6(1) of this chapter, a probation department or community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo home detention shall, at the beginning of a period of home detention, set the monitoring device and surveillance equipment to minimize the possibility that the offender or alleged offender can enter another residence or structure without a violation.

(e) A probation department or community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo home detention shall:

- (1) maintain or contract with a contract agency to maintain constant supervision of each offender and alleged offender; and**
- (2) have adequate staff available twenty-four (24) hours each**

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day to respond if an offender or alleged offender violates the conditions of a home detention order.

(f) A contract agency that maintains supervision of an offender or alleged offender under subsection (e)(1) shall notify the contracting probation department or community corrections program within one (1) hour if the offender or alleged offender violates the conditions of a home detention order. However:

(1) a community corrections advisory board, if the offender is serving home detention as part of a community corrections program; or

(2) a probation department, if the offender or alleged offender is serving home detention as a condition of probation or bail; may shorten the time in which the contract agency must give notice of a home detention order violation.

(g) A probation department or community corrections program may contract with a contract agency under subsection (e)(1) only if the contract agency can comply with subsection (f).

SECTION 6. IC 35-38-2.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) A probation department or community corrections program charged by a court with supervision of a violent offender placed on home detention under this chapter shall:

(1) cause a local law enforcement agency or contract agency described in section 10 of this chapter to be the initial agency contacted upon determining that the violent offender is in violation of a ~~court order~~ **for home detention order**;

~~(b) A probation department or community corrections program charged by a court with supervision of a violent offender placed on home detention under this chapter shall~~

(2) maintain constant supervision of the violent offender using ~~surveillance equipment and a monitoring device and surveillance equipment that can transmit information~~ **twenty-four (24) hours each day regarding an offender's precise location** The supervising entity may do this by either:

~~(1) (A) using the supervising entity's equipment and personnel;~~
or

~~(2) (B) contracting with an outside entity;~~ **a contract agency;**
and

(3) have adequate staff available twenty-four (24) hours each day to respond if the violent offender violates the conditions of a home detention order.

(b) A contract agency that maintains supervision of a violent

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offender under subsection (a)(2) shall notify the contracting probation department or community corrections program within one (1) hour if the violent offender violates the conditions of a home detention order. However, a:

(1) community corrections advisory board, if the violent offender is serving home detention as part of a community corrections program; or

(2) probation department, if the violent offender is serving home detention as a condition of probation or bail;

may shorten the time in which the contract agency must give notice of a home detention order violation.

(c) A probation department or community corrections program may contract with a contract agency under subsection (a)(2) only if the contract agency can comply with subsection (b).

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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